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**REMARKS**

Applicants respectfully request cancellation of claims 87 and 89-95 without prejudice to subsequent revival for prosecution in a continuation or divisional application.

*Status of the claims*

With entry of the instant amendment, claims 96-99 have been amended, new claims 104 and 105 have been added, and claims 89-95 have been cancelled. Claims 1-86 and 88 were previously cancelled. Therefore, claims 96-105 are currently pending.

New claim 104 recites a (monoclonal) antibody that is humanized. Support for the amendment can be found, e.g., on page 32, lines 5-15.

The amendments to the claims add no new matter. Amended claim 96 and new claim 105 recite an antibody that achieves an effect of reducing tumor volume. Support for the term "tumor volume" can be found, e.g., on page 119, lines 5-10. The additional amendments to claim 96 corrected typographical errors.

For convenience, the objections and rejections will be addressed in the order presented in the Office Action dated October 14, 2003.

*Objection to claim 96*

Claim 96 was objected to because of the typographical error in the term "proteinand". This error has been corrected in the amended claim.

*Obviousness-type double patenting rejection*

Claims 87, 89-93, and 94-103 were rejected for alleged obviousness-type double patenting over claims 1-3 of U.S. Patent No. 6,258,939 in view of Laus *et al.*

A terminal disclaimer and Certificate under 37 C.F.R. § 3.73(b) is submitted with this Amendment. The terminal disclaimer disclaims the terminal portion of the term of a patent granted on the instant application over U.S. Patent 6,258,939. U.S. Patent No. 6,258,939 and the subject application are commonly owned by the Regents of the University of California pursuant

to assignment of the rights of Urogenesys, now Agensys, in the application to the Regents of the University of California (a copy of the assignment recordation document is enclosed).

Applicants note that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. See, MPEP §804.02. Applicants therefore respectfully request withdrawal of the obviousness-type double patenting rejections.

*Rejections under 35 U.S.C. § 102(e) and § 103*

The rejection of claims 87, 90, and 92; and 87-95 under 35 U.S.C. § 102 and U.S.C. § 103, respectively, are moot in view of the cancellation of the claims.

*Rejections under 35 U.S.C. § 112, first paragraph*

Claim 95 has been cancelled, thereby obviating the rejection.

Claims 96 and 100-103 were rejected as allegedly failing to comply with the written description requirement. The Examiner alleges that the term "reduces tumor burden" is not supported in the specification. In order to expedite prosecution, claim 96 has been amended to recite "reduces tumor volume." Applicants believe that this amendment addresses the rejection and therefore respectfully request its withdrawal.

*Rejections under 35 U.S.C. § 112, second paragraph*

Claim 96 was rejected as allegedly indefinite in the recitation of the phrase "reduces tumor burden". As noted above, in order to expedite prosecution, the claim has been amended to recite "reduces tumor volume". This term refers to reduction of tumor mass, as taught in the specification, e.g., at pages 118-119. Applicants therefore respectfully request withdrawal of the rejection.

Appl. No. 09/855,632  
Amdt. dated March 15, 2004  
Amendment under 37 CFR 1.116 Expedited Procedure

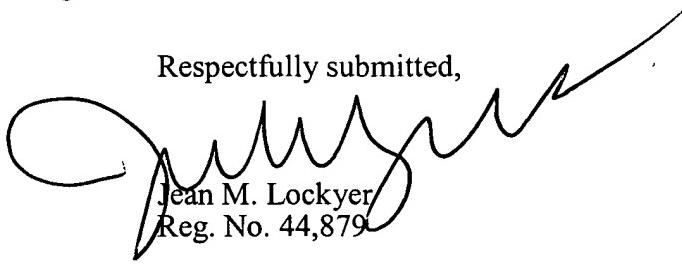
PATENT

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



Jean M. Lockyer  
Reg. No. 44,879

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300  
JML:jml  
60115165 v1

**SECRETARY OF STATE**

I, *BILL JONES*, Secretary of State of the State of California,  
hereby certify:

That the attached transcript of 3 page(s) has  
been compared with the record on file in this office, of  
which it purports to be a copy, and that it is full, true  
and correct.

**IN WITNESS WHEREOF**, I execute this  
certificate and affix the Great Seal of  
the State of California this day of

JUN 23 2001

A handwritten signature in black ink that reads "Bill Jones".

Secretary of State

**CERTIFICATE OF AMENDMENT****OF****AMENDED AND RESTATED****ARTICLES OF INCORPORATION****OF****UROGENESYS, INC.****ENDORSED - FILED**  
in the office of the Secretary of State  
of the State of California**JUN 14 2001**

BILL JONES, Secretary of State

**The undersigned certify that:**

1. They are the President and the Secretary, respectively, of UroGenesys, Inc., a California corporation.
2. Article One of the Amended and Restated Articles of Incorporation of this corporation is amended and restated in its entirety to read as follows:

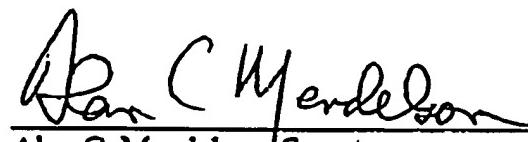
"The name of the Corporation is Agensys, Inc. (the "Corporation")."
3. The Board of Directors has duly approved the foregoing amendment of Amended and Restated Articles of Incorporation.
4. The foregoing amendment of Amended and Restated Articles of Incorporation has been duly approved by the required vote of shareholders in accordance with Section 902 of the California Corporations Code. The total number of outstanding shares of the

corporation is 4,718,513 shares of Common Stock, 4,030,000 shares of Series A Preferred Stock and 4,520,000 shares of Series B Preferred Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required more than fifty percent (50%) of the outstanding shares of the Corporation.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: June 13<sup>th</sup>, 2001

Donald B. Rice, President

  
\_\_\_\_\_  
Alan C. Mendelson, Secretary

corporation is 4,718,513 shares of Common Stock, 4,030,000 shares of Series A Preferred Stock and 4,520,000 shares of Series B Preferred Stock. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required more than fifty percent (50%) of the outstanding shares of the Corporation.

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Date: June 13<sup>th</sup>, 2001

  
Donald B. Rice, President

Alan C. Mendelson, Secretary





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Name (line 2)

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Address (line 2)  12th Floor

Address (line 3)  Oakland CA 94607-5200  
State/Country Zip Code

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## ASSIGNMENT

U.C. Case No. 97-575-9

For good and valuable consideration, the receipt of which is hereby acknowledge,  
ASSIGNOR (S).

1. Robert E. Reiter

2. Owen N. Witte

hereby sell, assign and transfer to ASSIGNEE, The Regents of the University of California, a California corporation, having its statewide administrative offices located at 1111 Franklin Street, 12<sup>th</sup> Fl., Oakland, CA 94607-5200, and the successors, assigns and legal representatives of the ASSIGNEE all of its right, title and interest for the United States and its territorial possessions and in all foreign countries in and to, any and all improvements which are disclosed in the invention entitled:

PSCA: PROSTATE STEM CELL ANTIGEN AND USES THEREOF

and which is found in

- (a) \_\_\_\_\_ U.S. patent application executed \_\_\_\_\_, entitled as  
above and listing the above-named persons as inventors
- (b) X U.S. application serial no. 09/564,329, filed on May 3, 2000
- (c) \_\_\_\_\_ U.S. Patent No.: \_\_\_\_\_, issued \_\_\_\_\_

and any legal equivalent thereof in a foreign country, including the right to claim priority and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, continuation-in-part, extension or substitute thereof, and any reissue, reexamination or extension of said Letters patent and all rights under all International Conventions for the Protection of Industrial Property:

ASSIGNOR (S) hereby covenants that no assignment, sale agreement or encumbrance has been or will be made or entered into which would conflict with his assignment;

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Fax: 626-395-0694

PATENT

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ASSIGNOR (S) further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation, or proceeding relating thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments, or affidavits required to apply for, obtain, maintain, issue or enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof. An attorney of record is authorized and requested by the execution of this assignment to insert into this assignment the filing date and serial number of said application when officially known.

And the ASSIGNOR (S) requests the Commissioner of Patents and Trademarks to issue said Letters Patent of the United States and any reissue or extension thereof to the ASSIGNEE, The Regents of the University of California.

executed this

Signature of Inventor (s)

12 day of November, 2000

Owen N. Witte  
Robert E. Reiter

       day of                 , 200  

Owen N. Witte

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FAX:626-395-0694

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## ASSIGNMENT

U.C. Case No. 97-575-9

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1. Robert E. Reiter

2. Owen N. Witte

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PSCA: PROSTATE STEM CELL ANTIGEN AND USES THEREOF

and which is found in

(a) \_\_\_\_\_ U.S. patent application executed \_\_\_\_\_, entitled as  
above and listing the above-named persons as inventors

(b)  U.S. application serial no. 09/564,329, filed on May 3, 2000

(c) \_\_\_\_\_ U.S. Patent No.: \_\_\_\_\_, issued \_\_\_\_\_

and any legal equivalent thereof in a foreign country, including the right to claim priority and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, continuation-in-part, extension or substitute thereof, and any reissue, reexamination or extension of said Letters patent and all rights under all International Conventions for the Protection of Industrial Property:

ASSIGNOR (S) hereby covenants that no assignment, sale agreement or encumbrance has been or will be made or entered into which would conflict with his assignment;

ASSIGNOR (S) further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation, or proceeding relating thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments, or affidavits required to apply for, obtain, maintain, issue or enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof. An attorney of record is authorized and requested by the execution of this assignment to insert into this assignment the filing date and serial number of said application when officially known.

And the ASSIGNOR (S) requests the Commissioner of Patents and Trademarks to issue said Letters Patent of the United States and any reissue or extension thereof to the ASSIGNEE, The Regents of the University of California.

executed this

Signature of Inventor (s)

\_\_\_\_ day of \_\_\_\_\_, 200\_

2<sup>nd</sup> day of NOV, 2000

Robert E. Reiter

Owen N. Witte  
Owen N. Witte

ASSIGNMENT

For good and valuable consideration, the receipt of which is hereby acknowledge,  
ASSIGNOR (S),

1. Douglas C. Saffran

2. Aya Jakobovits

hereby sell, assign and transfer to ASSIGNEE, UroGenesys, Incorporated, a California corporation, having its statewide administrative offices located at 1701 Colorado Avenue, Santa Monica, CA 90404, and the successors, assigns and legal representatives of the ASSIGNEE all of its right, title and interest for the United States and its territorial possessions and in all foreign countries in and to, any and all improvements which are disclosed in the invention entitled:

PSCA: PROSTATE STEM CELL ANTIGEN AND USES THEREOF

and which is found in

( a ) \_\_\_\_\_ U.S. patent application executed \_\_\_\_\_, entitled as above and listing the above-named persons as inventors

( b ) X U.S. application serial no. 09/564,329, filed on May 3, 2000

( c ) \_\_\_\_\_ U.S. Patent No.: \_\_\_\_\_, issued \_\_\_\_\_

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ASSIGNOR (S) further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation, or proceeding relating thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments, or affidavits required to apply for, obtain, maintain, issue or enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof. An attorney of record is authorized and requested by the execution of this assignment to insert into this assignment the filing date and serial number of said application when officially known.

And the ASSIGNOR (S) requests the Commissioner of Patents and Trademarks to issue said Letters Patent of the United States and any reissue or extension thereof to the ASSIGNEE, UroGenesys, Incorporated.

executed this

Signature of Inventor (s)

6<sup>th</sup> day of November, 2000

Douglas Saffran  
Douglas C. Saffran

6 day of November, 2000

Aya Jakobovits  
Aya Jakobovits

RECORDED: 12/26/2000

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